

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and)
GOOD TECHNOLOGY SOFTWARE, INC.,)
Plaintiffs,)
v.)
MOBILEIRON, INC.,)
Defendant.)

Case No. 5:12-cv-05826-PSG

**OMNIBUS ORDER RE: MOTIONS
TO SEAL****(Re: Docket Nos. 360, 380, 393, 400, 406,
409, 413)**

Before the court are seven administrative motions to seal 44 documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”¹ Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”² Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.³

¹ *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

² *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

³ *Id.* at 1178-79.

1 However, “while protecting the public's interest in access to the courts, we must remain
 2 mindful of the parties' right to access those same courts upon terms which will not unduly harm
 3 their competitive interest.”⁴ Records attached to nondispositive motions therefore are not subject
 4 to the strong presumption of access.⁵ Because the documents attached to nondispositive motions
 5 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving
 6 to seal must meet the lower “good cause” standard of Rule 26(c).⁶ As with dispositive motions, the
 7 standard applicable to nondispositive motions requires a “particularized showing”⁷ that “specific
 8 prejudice or harm will result” if the information is disclosed.⁸ “Broad allegations of harm,
 9 unsubstantiated by specific examples of articulated reasoning” will not suffice.⁹ A protective order
 10 sealing the documents during discovery may reflect the court’s previous determination that good
 11 cause exists to keep the documents sealed,¹⁰ but a blanket protective order that allows the parties to
 12 designate confidential documents does not provide sufficient judicial scrutiny to determine whether
 13 each particular document should remain sealed.¹¹

14
 15 In addition to making particularized showings of good cause, parties moving to seal
 16 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to
 17 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document
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19 ⁴ *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

20 ⁵ *See id.* at 1180.

21 ⁶ *Id.* at 1179 (internal quotations and citations omitted).

22 ⁷ *Id.*

23 ⁸ *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);
 24 *see* Fed. R. Civ. P. 26(c).

25 ⁹ *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 ¹⁰ *See Kamakana*, 447 F.3d at 1179-80.

27 ¹¹ *See* Civ. L.R. 79-5(d)(1)(A) (“Reference to a stipulation or protective order that allows a party to
 28 designate certain documents as confidential is not sufficient to establish that a document, or
 portions thereof, are sealable.”).

is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”¹² “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”¹³

With these standards in mind, the courts rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
360	MobileIron’s Omnibus Motion <i>In Limine</i>	Pages 10:9-11, 21 at n.90, 21:17-22, 21 at n.91 and 22 at n.92 at Docket No. 366-1 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
360	Exhibit 3	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 4 at Docket No. 366-3	Images on pages 193, 194 and 200 at Docket No. 366-3 SEALED; ¶¶ 224-26 and 231-32 at Docket No. 366-3 SEALED; Ex. A, page 19 at Docket No. 366-3 SEALED; Ex. C at Docket No. 366-3 SEALED; code in Ex. D at Docket No. 366-3 SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 5	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 7	¶¶ 30, 31, 40, 41 at Docket No. 366-5 SEALED; ¶ 42 at Docket	Only sealed portions narrowly tailored to

¹² Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

¹³ Civ. L.R. 79-5(e)(1).

		No. 366-5 UNSEALED.	confidential business information.
360	Exhibit 9	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 10	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 11	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 12	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 14	Page 17 at Docket No. 366-10 SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 15	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 17	Monetary values in ¶¶ 9, 10, 11, 12 and 198 at Docket No. 366-12 SEALED; percentages in ¶¶ 249, 264, 298 and 97 n.374 at Docket No. 366-12 SEALED; exhibits 12, 12-1, 12A, 12A-1, 12B, 12B-1, 12C and 12C-1 at Docket No. 366-12 SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 18	Only specific customer names between 14:6-15:2 at Docket No. 366-13 SEALED.	Only sealed portions narrowly tailored to confidential business information.
360	Exhibit 19	UNSEALED.	Not narrowly tailored to confidential business information.
360	Exhibit 21	UNSEALED.	No declaration in support filed with the


			court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 22	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 30	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 32	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 33	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 34	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 35	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 36	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
360	Exhibit 38	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 39	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 40	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 41	UNSEALED.	No declaration in support filed with the court as required by

			Civ. L.R. 79-5(e)(1).
360	Exhibit 42	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 43	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 44	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 45	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 46	SEALED.	Narrowly tailored to confidential business information.
360	Exhibit 47	SEALED.	Narrowly tailored to confidential business information.
380	Exhibit 2	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
393	Good's Opposition to MobileIron's Motions <i>In Limine</i>	Page 12:19-20 at Docket No. 393-4 SEALED; page 13:5-6 at Docket No. 393-4 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
393	Exhibit 6	SEALED.	Narrowly tailored to confidential business information.
393	Exhibit 7	UNSEALED.	Not narrowly tailored to confidential business information.
393	Exhibit 8	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).

393	Exhibit 9	Pages 146:20-147:12 at Docket No. 393-8 SEALED.	Narrowly tailored to confidential business information.
393	Exhibit 10	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
400	Exhibit 1	Designations highlighted in yellow at Docket No. 400-3 SEALED EXCEPT pages 1:14, 2:6-10, and 5:16-17 UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
406	Exhibit 3	Only pages 7-11 at Docket No. 406-3 SEALED.	Only sealed portions narrowly tailored to confidential business information.
406	Exhibit 4	UNSEALED.	Not narrowly tailored to confidential business information.
409	Corrected Exhibit 5	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
413	MobileIron's Opposition to Good Technology's Motion For Leave To File a Motion for Reconsideration In Part of Court's Summary Judgment Order Regarding Lost Profits	UNSEALED.	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).

SO ORDERED.

Dated: July 7, 2015


PAUL S. GREWAL
United States Magistrate Judge